

GILLESPIE FIELD DEVELOPMENT COUNCIL

April 20, 2004

Agenda Item #8

Revisions to Board Policy F-51

County Real Property Asset Management

Policies of the San Diego County Board of Supervisors are regularly reviewed to determine if revisions are advisable. The Department of General Services has drafted revisions to Board Policy F-51 County Real Property Asset Management.

This policy refers to the Gillespie Field Development Council as well as other Real Property Asset Management issues for the County of San Diego, including County Airports. Therefore it is appropriate to ask the Gillespie Field Development Council for their recommendation regarding the proposed policy.

Staff has reviewed the proposed changes as they apply to Airports and found them acceptable. Council members were provided copies of the proposed new policy at the March 16, 2004 meeting to allow time for review prior to tonight's motion item. The proposed new policy, along with comments regarding the changes (*in italics in bold*), is provided below.

Staff proposes the following motion: **"The Gillespie Field Development Council has reviewed the proposed revisions to Board Policy F-51 County Real Property Asset Management and recommends approval by the Board of Supervisors."**

F-51

(DRAFT)

(April 24, 2003)

County Real Property Asset Management

Purpose

The purpose of this policy is to establish guiding principles for the management of County-owned real property. The policy sets forth the process for determining if County-owned real property is surplus to County needs and whether such property should be sold or leased. The policy also establishes the procedures to be used in the process of selling or leasing of County-owned real property.

Background

Increasing demand for County services, combined with diminishing discretionary revenue requires intensified utilization of County properties and a more aggressive approach in managing these assets. ***[Streamlined by eliminating irrelevant comparison with other agencies.]***

It has been the County's policy to return to other public agencies or to the private sector that surplus real property that is no longer needed by the County for public facilities and programs. Whole properties are occasionally acquired when only portions are to be utilized for proposed public roads or other projects. The County attempts to sell the unneeded portions of the acquired properties and other surplus properties for the highest net return to the County. However, property which is substandard, or zoned for a use which is incompatible with the surrounding neighborhood will not be sold until appropriate zoning entitlements are in place. ***[Minor wording changes for clarity]***

The County periodically has properties that must be retained for long-term public use that may be available for interim private use. Examples include future rights-of-way or properties acquired for future park development. In other instances, the combination of public ownership/investment and private operation may be best for the public's interest. For example, a concessionaire in a regional park or a fixed-base operator at a County airport may be less expensive and more responsive in serving the community's needs at public facilities.

Policy

It is the policy of the Board of Supervisors that:

1. Surplus Property Determination and Reports to Board of Supervisors. ***[Minor wording changes for clarity]***
 - a. The Director of General Services shall solicit input from County Departments to identify potential surplus property on an annual basis.
 - b. The Director of General Services shall as circumstances warrant make a determination as to what property is surplus to County needs. This determination shall be based on current County Master Plans and individual department's strategic plans relative to the County's financial ability to develop and effectively utilize the particular properties within a reasonable time frame. Prior to final determination of which property is surplus to County needs, the Director of General Services shall review the County's occupancy of leased space and lease termination dates to determine if property identified as surplus may be suitable for the relocation of County tenants from leased to owned space. Further, prior to final determination that any unimproved property is surplus to County needs, the Director of General Services shall consider the habitat value of the property for possible inclusion in a mitigation bank. ***[Expanded for clarity, to add consideration of converting leased space to owned, and to add habitat value consideration.]***

- c. The Director of General Services shall maintain a list, updated no less than annually, that identifies real property that is considered surplus to County needs. In addition, the Director shall:
 1. Periodically circulate this list to County department heads as updates are made.
 2. Incorporate as appropriate plans to lease, sell or redevelop surplus real property into the Capital Improvement Plan filed annually with the Board.
 3. As circumstances warrant, request a finding of the Board through reports filed by the Chief Administrative Officer that individual parcels of real property are surplus to County needs, and include a recommendation as to whether the surplus property should be leased or sold.

[Director's duties revised to better conform to Gov't Code 50569("Required Annual Inventory") and to reflect current practice, including elimination of requirement to report on holdover leases. Department policies and practices provide for eliminating and mitigating lease holdover risks as an ongoing activity]

2. ***[New heading added]*** Lease of Surplus County Real Property

[Former paragraph 2. eliminated, as it is redundant to purpose and intent already stated on page one]

- a. ***[Relocated provision]*** It is the County's intent to properly utilize surplus properties through development of lease revenues for public benefit, or to sell such properties to the private sector, or another public agency, when no current or prospective use is envisioned. ***[This sentence was formerly the last sentence of Background. It was moved at request of County Counsel because it is a policy statement.]***
- b. ***[New provision]*** Surplus real property shall be leased rather than sold wherever practical and reasonable to generate ongoing revenue. ***[Added to reflect current County practice]***
- c. ***[Number "3." under previous formatting]*** Whenever joint or multiple use of public and private interests is compatible, the production of lease revenue will be considered as an ancillary or supplemental use of property.
- d. ***[Number "4." under previous formatting]*** Leases of County property shall be offered without favor or discrimination to all individuals or groups capable of performing the services desired under the lease. A public solicitation process which considers the available market and interest shall be undertaken. The Director, Department of General Services shall implement this process, which must include advertising commensurate with the most effective method of reaching prospective lessees, and as prescribed by law. ***[Streamlined, and last sentence eliminated, as the CAO can always ask for a waiver of any policy provision not dictated by law]***

- e. ***[New provision]*** The County may pay a real estate brokerage commission for the lease of surplus County real property when it is deemed advisable that the assistance of a real estate broker may cause a property to lease at a higher price, lease sooner, or when the property's unique characteristics precludes handling the lease by staff alone. The Board must include its intention to pay a commission in the resolution and otherwise conform to the provisions of Government Code Section 25527. ***with legal reference provided. This provision also reflects similar provision found under sales procedures in 5 (b)***
- f. ***[Number "5." under previous formatting]*** When all proposers are responsible and are equally qualified to meet the use and/or development objectives of the lease under consideration, the highest net return to the County shall be the basis of selection. In other circumstances, and where it is not required by law that the property be leased to the highest bidder, the Board may approve a request for proposals process that utilizes a variety of selection criteria appropriate to the intended use of the property. ***[Revised to include RFP process and to reflect current practice]***
- g. ***[Number "6." under previous formatting]*** Leases containing holdover or indefinite term provisions shall include an inflation provision to provide increased rent during the extended period.
- h. ***[Number "7." under previous formatting]*** Notwithstanding provisions c. and e, the State of California, Health and Welfare Agency, Department of Rehabilitation, shall be given the first opportunity to submit a proposal through their Business Enterprise Program for a concession to be operated by a legally blind person, when the proposal is for the provision of vending facility as defined in Section 19626 of the Welfare and Institutions Code. If such a proposal is submitted by the State, it will be considered on its merits before other proposals are solicited by the County.
- i. ***[Number "8." under previous formatting]*** Certain properties, such as airports and parks, may warrant performance leases requiring special management or investment of private capital in public facilities due to unique or restricted use conditions. Establishment of special lease policies, such as the Gillespie Field Development Council's Implementation Practice for San Diego County Airport Development, as approved in principle periodically by the Board of Supervisors, shall become a part hereof by reference and shall be the controlling guidelines for leasing such properties insofar as there is any conflict with other Board of Supervisors Policies.
- j. ***[Number "9." under previous formatting]*** The Airport Section of the Department of Public Works shall be the principal contact with airport lessees and is responsible for the functions and activities of lessees related to the operation of County airports. The Airport Section shall assist

the Department of General Services in identifying, screening, selecting and negotiating leases with proposed tenants and lessees on airport properties.

- k. ***[Number “10” under previous formatting]*** The Department of General Services shall be the principal contact with lessees on property managed by the Department of Parks and Recreation. The Department of Parks and Recreation shall assist the Department of General Services in identifying, screening, selecting and negotiating leases with proposed lessees on property managed by the Department of Parks and Recreation. ***[Modified at Park’s request to name General Services as principal contact with lessees.]***
- l. ***[Number “11” under previous formatting]*** Revenue from the lease of General Fund properties will be budgeted in the Department of General Services Facilities Management Internal Service Fund (Real Estate Services Division). Revenues leasing property managed by Parks, Airports, Roads, Special Districts Enterprise Fund, or other special funds will be budgeted in their respective programs. ***[Modified to reference Internal Service Fund and to add reference to Parks.]***
- m. ***[Number “12.” under previous formatting]*** A rental valuation review shall be completed for County-owned or leased land and improvements available for lease. Such reviews shall be done at the time property becomes available for lease and at appropriate time periods consistent with good real estate management practice.
- n. ***[New provision]*** Lease terms shall generally be limited to a reasonable time commensurate with the amount of capital investment or reinvestment being made by the lessee in improvements to the premises or property. Capital Investment is defined as construction of new improvements, alterations or additions that (i) exceed \$100,000, or exceed 10% of the value of any existing leasehold improvements; (ii) are not recurring; and (iii) are expected to increase the value (efficiency, productivity, utility) of the improvements. ***Capital Investment definition modeled after language in Port of San Diego leasing policy statement.*** For improved property, where no capital investment is required of or proposed by a prospective lessee, fixed lease terms will be granted for periods in keeping with industry standards for the type of improvements and the intended use of the property. ***Added to reflect and clarify current County leasing practice and to provide greater flexibility]***
- o. ***[Number “13.” under previous formatting]*** Leases with a term exceeding ten years in length shall provide for renegotiation of rent to market level at appropriate intervals in keeping with industry standards. ***[Changed from 9 years to allow flexibility for different types of leases of varying length. This change is consistent with current County and private sector leasing practice.]*** Interim cost-of-living adjustments shall also be provided in between market level adjustments at appropriate intervals in keeping with industry standards. ***[Changed***

from 5 years to allow flexibility for different types of leases of varying lengths. This change is consistent with current County and private sector leasing practice. [. In no event, shall the minimum rent for the adjustment period be less than the minimum rent payable immediately prior to the adjustment period. [Last sentence added to reflect standard private and public leasing practice]

- p. *[New provision]* All County leases shall be written on a form approved by County Counsel, and shall at a minimum conform to local/regional standards of tenant responsibility and liability. County leases may contain more restrictive clauses than private sector leases to better protect the public interest (strict provisions for complying with all laws, particularly environmental laws such as hazardous materials management and stormwater pollution prevention regulations). *[Added to reflect and clarify current County leasing practice]*
- q. *[New provision]* A lease extension may be granted to a tenant who has fully complied with all terms and conditions of the lease if granting an extension would be in the best interests of the County. Factors to be considered in determining the terms of a lease extension shall include the following:
1. New capital investment as describe in “n”, above, if appropriate;
 2. Whether the public interest would be better served by allowing the lease to expire so that potential new tenants may participate in a new competitive solicitation process; and
 3. An increase in rent, or lump sum payment to the County, based on the higher of:
 - i. the present value of the County’s reversionary interest in the leasehold improvements when the lease extension is granted; or
 - ii. an amount equal to 50% of the increased value of the leasehold estate due to the lease extension, as determined by standard appraisal practice.

[Added to reflect and clarify current County leasing practice]

3. General Prerequisites for Sale of Surplus Property:

- a. No property will be sold until an estimate of its fair market value has been made. *[Last sentence deleted, as reference to hiring independent appraisers is standard practice and not necessary to state in policy per County Counsel]*
- b. County-owned surplus properties available for sale shall be zoned to their highest and best use whenever practicable and whenever such zoning will materially increase chances of selling the

property for a higher price. No surplus property shall be zoned in a manner incompatible with present and anticipated future uses of adjacent properties in the same neighborhood. Current zoning of surplus properties may be changed to a more restrictive use.

- c. ***[New provision]*** The County may subdivide its surplus property prior to sale, if subdivision of the property will likely increase the net sales price to the County. ***[Added for flexibility and to reflect County practice]***
- d. ***[Paragraph “c.” under previous formatting]*** Prior to selling a property, a report shall be obtained from the jurisdictional planning agency that the proposed disposal is not in conflict with the general plan for the area in which the property is located.
- e. ***[Paragraph “d.” under previous formatting]*** Appropriate governmental entities shall be notified of the surplus property's availability, prior to offering it for sale to the general public.
- f. ***[Paragraph “e.” under previous formatting]*** No property shall be sold without an appropriate review pursuant to State Guidelines established under the California Environmental Quality Act. ***[Modified for clarity by County Counsel]***
- g. ***[Paragraph “f.” under previous formatting]*** Substandard or unbuildable property is offered for sale upon a demonstrated interest of a party who can put the property to productive use. A potentially non-refundable cash deposit may be required where the County will undergo substantial overhead in making the property available for sale.

4. Property Conveyed to Another Public Agency

Whenever the County conveys property or any interest therein to another public agency for its use and benefit, the County shall charge a reasonable amount for the property or interest being conveyed. In determining the amount to be charged the County shall give consideration to the following factors:

- a. The market value of the property or interest therein, if ascertainable.
- b. The benefit or cost ***[previous two words added to clarify intent]*** to the County as a result of:
 - 1. the use to be made of the property or interest therein by the public agency;
 - 2. the elimination or reduction of any County liability and/or obligation to maintain or operate the property; and
 - 3. the effect on the County's remaining property, if applicable.

4. ***[New provision]*** the potential loss of property tax revenue to County. ***[Added to expand consideration of cost ramifications]***
5. Solicitations of Offers to Purchase
 - a. The Director, Department of General Services is authorized to enter into agreements permitting soil tests, engineering studies, hazardous materials investigations, or environmental surveys when a request has been made by a potential buyer of County surplus property. Such authorization will enable the Director, Department of General Services, to more expeditiously solicit Offers to Purchase. ***[Modified to expand and clarify intent]***
 - b. The County may pay a real estate brokerage commission for the sale of County surplus real property when it is deemed advisable that the assistance of a real estate broker may cause a property to sell at a higher price or when the property's unique characteristics precludes handling of the sale by staff. The Board must include its intention to pay a commission in the resolution and otherwise conform to the provisions of Government Code Section 25527. ***[Last sentence added for clarification and legal reference]***
 - c. In addition to advertising mandated by law, surplus property to be sold shall be advertised for sale in the manner most likely to reach the largest number of potential buyers. Appropriate For Sale signs shall be posted on properties. The advertising period shall be of sufficient duration to attract buyers for properties to be sold. Special marketing programs utilizing a Request for Proposal process shall be prepared and implemented for unique properties where the normal bid process may not be appropriate. ***[Minor modification for clarity]***
6. Sale of Surplus Property by Board of Supervisors or Director, Department of General Services:
 - a. Sales may either be conducted by the Board of Supervisors or the Director, Department of General Services.
 - b. Sales of properties having an estimated value of more than \$25,000 shall be conducted by the Board of Supervisors through a sealed bid opening followed by an auction or the Request for Proposal process, at a time and place publicly announced and noticed, by legal advertising.
 - d. Sales of properties having an estimated value of \$25,000 or less and capable of being developed may be conducted by a representative of the Director, Department of General Services, at a time and place publicly announced and noticed by legal advertising pursuant to Government Code Sections 25526.5. ***[Last sentence modified to add legal reference]***

- e. ***Paragraph deleted because it is the subject of Board Policy I-81 RIGHTS OF WAY OVER, UNDER, ALONG OR THROUGH COUNTY OR DISTRICT REAL PROPERTY (Government Code Sections 25526.6). Does not pertain to sales of surplus property.***

Sunset Date

This policy will be reviewed for consideration by ~~12-31-02~~ 12-31-09.

Board Action

12-09-07 (19)

CAO Reference

1. Department of General Services
2. Auditor and Controller
3. Department of Public Works
4. Department of Parks & Recreation ***[Added]***